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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 LYNN MACY, as an individual,  
12 Plaintiff,  
13 v.  
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15 CSA-18 SPECIAL DISTRICTS PUBLIC  
WORKS, a public entity,  
16 Defendant.  
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Case No. 5:24-cv-00902-AB-SP

**DEFENDANT CSA-18 SPECIAL  
DISTRICTS PUBLIC WORKS' REPLY  
TO PLAINTIFF'S OPPOSITION TO  
RULE 12(b) MOTION TO DISMISS  
SECOND AMENDED COMPLAINT**

Case Assigned to:  
Honorable District Court Judge Andre  
Birotte, Jr.

Referred to:  
Honorable Magistrate Judge Sheri Pym

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21 Defendant CSA-18 SPECIAL DISTRICTS PUBLIC WORKS ("Defendant")  
22 hereby submit its Reply to Plaintiff Lynn Macy's ("Plaintiff") Opposition to  
23 Defendant's Motion to Dismiss ("Motion") the Second Amended Complaint ("SAC")  
24 ("Opposition").

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

As with the operative Second Amended Complaint (“SAC”) subject to this Motion, Plaintiff’s Opposition completely fails to address any of the significant and substantial legal and factual defects contained therein. Plaintiff has simply taken Defendant’s arguments pertaining to the SAC’s deficiencies and declared the affirmative of each argument, that the SAC: (1) is in compliance with Rule 8; (2) states claims upon which relief can be granted; (3) alleges the necessary factual & legal bases to support cognizable federal claims; (4) provides Defendant with a concise summary of the events, people, locations, facts surrounding the events, encounters, interactions; and (5) gives Defendant fair notice of what Plaintiff’s claim is and the grounds upon which it rests. Opposition p. 2. This is woefully insufficient.

**II. LEGAL ARGUMENT**

**A. PLAINTIFF’S FAILURE TO RESPOND OR TO CITE APPLICABLE  
AUTHORITIES CONCEDES THE ARGUMENTS AND CONSTITUTES  
A WAIVER AND/OR ABANDONMENT**

Courts have consistently held that when a party does not respond to arguments raised in a motion to dismiss, the claims or defenses at issue may be deemed waived and/or abandoned. Plaintiff’s failure to oppose, argue, or even address issues and arguments raised in Defendant’s 12(B) Motion to Dismiss demonstrates that Plaintiff has acquiesced and concedes the arguments. Courts have established that failure to address arguments against a claim raised in a motion to dismiss constitutes abandonment or waiver of the claim. In Miller v. Ford Motor Co., 620 F. Supp. 3d 1045 (E.D. Cal. 2022), the court stated that "where a party fails to address arguments against a claim raised in a motion, the claims are abandoned and dismissal is appropriate" Miller, 620 F. Supp. 3d 1045. Similarly, in Lunn v. City of Los Angeles, 629 F. Supp. 3d 1007 (C.D. Cal. 2022), the court reiterated that "where a party fails to address arguments against a claim raised in a motion to dismiss,

1 the claims are abandoned and dismissal is appropriate" Lunn, 629 F. Supp. 3d 1007. This  
2 principle is widely recognized across jurisdictions, as demonstrated in Conservation  
3 Force v. Salazar, 677 F. Supp. 2d 1203 (N.D. Cal. 2009), where the court held that failure  
4 to provide a defense for a claim in opposition to a motion to dismiss results in waiver of  
5 the claim. Conservation Force, 677 F. Supp. 2d 1203. In civil litigation, courts have held  
6 that failure to oppose dismissal of a claim constitutes waiver or abandonment of the issue.  
7 This principle aligns with broader case law emphasizing the importance of addressing all  
8 arguments raised in motions to avoid waiver.

9 Further, courts are not obligated to comb through the record or the law to support  
10 arguments that a party has failed to adequately present. The Court of Appeals in California  
11 has stated that it is not the function of the appellate court to comb the record for evidence  
12 to support a party's argument. Becerra v. McClatchy Co., 69 Cal. App. 5th 913 (2021).  
13 Similarly, the Ninth Circuit has emphasized that courts will not manufacture legal  
14 arguments or comb the record for factual support on behalf of an appellee. Ecological Rts.  
15 Found. v. Pac. Gas & Elec. Co., 874 F.3d 1083 (9th Cir. 2017). More recently, the Ninth  
16 Circuit reiterated that district courts are not required to comb the record to make a party's  
17 argument for it. U.S. Wholesale Outlet & Distribution, Inc. v. Innovation Ventures, LLC,  
18 89 F.4th 1126 (9th Cir. 2023) [emphasis added]. The Appeals Court noted declared that  
19 reviewing courts are not obligated to search the record to ascertain whether it contains  
20 support for a party's contentions. Perry v. Stuart, 111 Cal. App. 5th 472 (2025). Simply  
21 put, this Court is not obligated to comb the record and the law for factual and legal support  
22 that a Plaintiff has failed to identify or provide. Quantum Cooking Concepts, Inc. v. LV  
23 Assocs., Inc., 197 Cal. App. 4th 927 (2011).

24 Here, Plaintiff is unable to set forth any arguments in opposition to Defendant's  
25 Motion, which is tantamount to an admission that the SAC cannot be amended to set forth  
26 a valid cause of action against Defendant. Thus, this Court should GRANT Defendant's  
27 Motion without leave to amend.

**B. PLAINTIFF HAS HAD MULTIPLE OPPORTUNITIES TO AMEND  
AND FAILED**

Plaintiff has had multiple opportunities to amend the Complaint to meet the federal pleading standard and has repeatedly failed. “Neither the court nor the defendants should be compelled to cull through pages of rambling narrative, argument and needless digression to discover the factual bases for [Plaintiff’s] claims.” Jacobson v. Schwarzenegger, 226 F.R.D. 395, 397 (C.D. Cal. 2005). Given these deficiencies, leave to amend is not warranted. See Lopez v. Smith, 203 F.3d 1122, 1127 n.8 (9th Cir. 2000) (en banc) (“When a case may be classified as frivolous or malicious, there is, by definition, no merit to the underlying action and so no reason to grant leave to amend.”); Lockheed Martin Corp. v. Network Sols., Inc., 194 F.3d 980, 986 (9th Cir. 1999) (amendment was futile where there was no cause of action). The SAC fails to state a legally cognizable claim for its causes of action because California public entities are immune from liability for torts or common law causes of action, except as provided by statute. Thus, the SAC should be dismissed without leave to amend.

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**III. CONCLUSION**

The SAC fails to state a claim upon which relief can be granted. Plaintiff's Monell claim fails because Plaintiff is unable to allege any of the legal elements or the necessary factual support. Plaintiff has no private right of action for extortion. See Abcarian v. Levine, 972 F.3d 1019, 1026 (9th Cir. 2020) (no private right of action for extortion, which is a federal criminal offense). Plaintiff's other remaining claims are based on State tort law rather than federal law, and they are time-barred for failure to timely comply with the Government Tort Claims Presentation Act. See RJN generally. If, after careful consideration, it is clear that a complaint cannot be cured by amendment, a court may dismiss without leave to amend. Cato v. United States, 70 F.3d 1103, 1107 (9th Cir. 1995). Thus, this court should GRANT Defendant's Motion, without leave to amend.

DATED: August 18, 2025

Respectfully submitted,

TOM BUNTON  
County Counsel



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SEONHAE SHIN  
Deputy County Counsel  
Attorneys for Defendant CSA-18 SPECIAL  
DISTRICTS OF PUBLIC WORKS

**CERTIFICATE OF COMPLIANCE**

The undersigned counsel of record for Defendant CSA-18 SPECIAL DISTRICTS OF PUBLIC WORKS certify that this brief contains 1039 words, which complies with the word limit of L.R. 11-6.1.

DATED: August 18, 2025

TOM BUNTON  
County Counsel

  
SEONHAE SHIN  
Deputy County Counsel  
Attorneys for Defendant

**PROOF OF SERVICE**

I am employed in the County of San Bernardino, State of California. I am a citizen of the United States, employed in the County of San Bernardino, State of California, over the age of 18 years and not a party to nor interested in the within action. My business address is 385 North Arrowhead Avenue, Fourth Floor, San Bernardino, CA 92415-0140.

On August 18, 2025, I served the following documents (*specify*): **DEFENDANT CSA-18 SPECIAL DISTRICTS PUBLIC WORKS' REPLY TO PLAINTIFF'S OPPOSITION TO RULE 12(b) MOTION TO DISMISS SECOND AMENDED COMPLAINT**

I served the documents on the persons below, as follows:

Lynn Macy, in Pro Per  
P.O. Box #103  
Twin Peaks, CA 92391  
Tel: 909-744-8480  
Email: [1611Bible.us@gmail.com](mailto:1611Bible.us@gmail.com);  
[1coolranger@gmail.com](mailto:1coolranger@gmail.com);  
[macybuilders@yahoo.com](mailto:macybuilders@yahoo.com);  
[jerushastar@gmail.com](mailto:jerushastar@gmail.com)

☒ **By e-mail or electronic transmission.** Pursuant to California *Code of Civil Procedure* § 1010.6(e), per agreement of parties, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America, that the above is true and correct.

DATED: August 18, 2025

/s/ Marisela Alonso  
Marisela Alonso, Declarant